

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Rollie Bredeson, Petitioner-Appellant, v. Polk County Board of Review, Respondent-Appellee.	ORDER Docket No. 11-77-1179 Parcel No. 320/00392-004-000
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On April 12, 2013, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Rollie Bredeson, a local real estate professional, filed the appeal on behalf of Edward Rise and Mary Drees and represented them at hearing. Assistant County Attorney Ralph Marasco, Jr., represented the Board of Review. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Edward Rise and Mary Drees are the owners of property located at 4230 Commerce Drive, West Des Moines, Iowa. The real estate was classified residential on the January 1, 2011, assessment. It was valued at \$247,100, representing \$11,400 in land value and \$235,700 in improvement value. The Dreeses protested the assessment to the Polk County Board of Review on the ground that the property was assessed for more than the value authorized by law under section 441.37(1)(a)(2) and asserted the correct value was \$205,000. Additionally, they claimed there was an error in the assessment under section 441.37(1)(a)(4); however, the statement essentially asserts the property is over-assessed because they believed functional or external obsolescence had not been considered. The

Board of Review granted the protest, in part, by adding a 5% functional obsolescence adjustment, which reduced the assessment to \$235,100.

Rollie Bredeson then filed an appeal to this Board on the Dreeses' behalf reasserting their claim.

According to the property record card, the subject property is a one-story, frame home built in 2007. It has 2274 square feet of above-grade living area and a crawl-space foundation. In addition, the property has 1177 square-feet of deck area and an 896 square-foot attached garage. The subject site is 0.23-acres.

The Dreeses main argument is that the subject property suffers from both economic and functional obsolescence. Bredeson testified he does not believe obsolescence was adequately considered within the assessment. He explained that the subject property is not on a paved road and that the site is "right on" the river so subject to flooding. The improvements are elevated, but because of the proximity to the river, the site is still prone to flooding. Furthermore, despite its proximity to the river, the site does not have boat or beach access. Bredeson also believes the home is over-improved in terms of size and only has two bedrooms.

Polk County Deputy Assessor Amy Rasmussen-Thorne testified that the Board of Review applied a 5% functional obsolescence to the property.

We also note the Certified Record includes the Board of Review's Appraiser Analysis that lists two "protest comparables." One property sold in November 2010 for \$77,000. It is an older home that was being torn down and it only had 672 square feet of living area compared to the subjects 2274 square feet of living area. The second property sold in September 2010; however, the sale was from a government entity and, therefore, may not reflect actual market value. For these reasons, we give this analysis no consideration.

Bredeson did not provide any evidence to support what he believes to be the correct amount of obsolescence. Nor did he provide any evidence regarding the fair market value of the property as of the assessment date.

Conclusion of Law

The Appeal Board applied the following law.

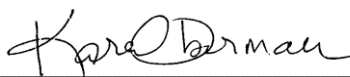
The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

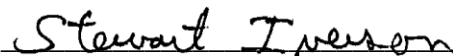
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The Dreeses did not provide any evidence of the market value of the subject property using sales.

THE APPEAL BOARD ORDERS the assessment of the property located at 4230 Commerce Drive, West Des Moines, Iowa, of \$235,100, as of January 1, 2011, as set by the Polk County Board of Review is affirmed.

Dated this 6th day of May 2013.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on May 6, 2013.

By: ☒ U.S. Mail ☐ FAX
☐ Hand Delivered ☐ Overnight Courier
☐ Certified Mail ☐ Other



Signature _____